

(ORIGINAL)

Philip Machado

(Name)

480 Alta Road

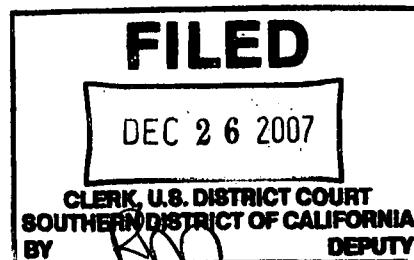
(Address)

San Diego, CA.

F-64316

(CDC Inmate No.)

2254	1983
FILING FEE PAID	
Yes	No
HFP MOTION FILED	
Yes	No
COPIES SENT TO	
Court	ProSe



United States District Court

Southern District of California

Philip L. Machado,

(Enter full name of plaintiff in this action.)

) '07 CV 2413 JLSAJB

Plaintiff,

Civil Case No. _____

(To be supplied by Court Clerk)

v.

Robert Tilton,
Director of Corrections,
P.O. Box 92883,
Sacramento, CA.
 (Enter full name of each defendant in this action.) 94283-001

Complaint under the
Civil Rights Act
42 U.S.C. § 1983

Defendant(s).

A. Jurisdiction

Jurisdiction is invoked pursuant to 28 U.S.C. § 1333(a)(3) and 42 U.S.C. § 1983. If you wish to assert jurisdiction under different or additional authority, list them below.

B. Parties

1. Plaintiff: This complaint alleges that the civil rights of Plaintiff, Philip L. Machado (print Plaintiff's name), who presently resides at 480 ALTA ROAD (mailing address or place of confinement) San Diego CA. 92179, were violated by the actions of the below named individuals. The actions were directed against Plaintiff at _____

DONOVAN State Prison on (dates) 3-27-07, 8-31-07, and 9-7-07.

(institution/place where violation occurred)

(Count 1)

(Count 2)

(Count 3)

Chukawalla State Prison

2. Defendants: (Attach same information on additional pages if you are naming more than 4 defendants.)

Defendant Robert Tilton (name) resides in Sacramento, (County of residence)
 and is employed as a Director of Corrections Calif. (defendant's position/title (if any)). This defendant is sued in
 his/her individual official capacity. (Check one or both.) Explain how this defendant was acting
 under color of law: As Director of Corrections all violations (counts) were carried out under his authority and [redacted] approval.

Defendant _____ resides in _____, (County of residence)
 and is employed as a _____ (defendant's position/title (if any)). This defendant is sued in
 his/her individual official capacity. (Check one or both.) Explain how this defendant was acting
 under color of law: _____

Defendant _____ resides in _____, (County of residence)
 and is employed as a _____ (defendant's position/title (if any)). This defendant is sued in
 his/her individual official capacity. (Check one or both.) Explain how this defendant was acting
 under color of law: _____

Defendant _____ resides in _____, (County of residence)
 and is employed as a _____ (defendant's position/title (if any)). This defendant is sued in
 his/her individual official capacity. (Check one or both.) Explain how this defendant was acting
 under color of law: _____

C. Causes of Action (You may attach additional pages alleging other causes of action and the facts supporting them if necessary.)

Count 1: The following civil right has been violated: Freedom from cruel and unusual punishment (E.g., right to medical care, access to courts, due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.)

Supporting Facts: [Include all facts you consider important to Count 1. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, by name, did to violate the right alleged in Count 1.]

On March 27, 2007 I was transferred from the custody of the County Sheriff in San Diego to the custody of the California Department of Corrections at Donovan State Prison. After being processed into the system I was marched to the #2 yard and into a building that was actually a full court gym complete with basketball backboards intact. Only now it was being used as a living quarters with mostly triple bed bunks that literally extended wall to wall in every direction except for a small T.V. area at one end and a bathroom area at the other end. The T.V. seating only allowed less than $\frac{1}{4}$ of the people there to watch at a time. If you took two steps in any direction at any time you would probably be blocking someone else's path.

The bathroom situation was the worst. The long line every MORNING after breakfast waiting (often times cramping) to finally use one of about 20 toilets spaced so closely together that you could actually grab the ass of the man sitting next to you w/out even leaning over. The sounds and smells were disgusting.

This was allowed under the direction of Robert Tilton, The Director of Corrections for the State of California.

Count 2: The following civil right has been violated: Freedom from cruel and unusual punishment
 (E.g., right to medical care, access to courts, due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.)

Supporting Facts: [Include all facts you consider important to Count 2. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, by name, did to violate the right alleged in Count 2.]

On or about August 31, 2007 I was put on a transport bus to Chukawalla State Prison approximately 250 miles away across County lines. I was extremely happy to be leaving DONOVAN.

Upon arrival I was assigned to "B" yard, building #4 which housed some 340 inmates as opposed to the DONOVAN gym which housed about 165.

The community area of bldg. #4 of "B" yard offered more space than DONOVANS gym. The down side was that bldg. 4 also was furnished with mostly triple bunk beds which were (much) closer together than those of DONOVAN. (cramped)

Also triple high bunks only allow the person assigned to the top bunk the ability to sit up in bed. Those assigned to the middle and lower bunks had to crawl into little slots (cubby holes) where the Mattresses rested. with barely room to turn over.

At 5'4 and 46 years old I was assigned to the top bunk over six feet up and scary as hell climbing up and down. (NO ladders)

Finally, at night when all three bunks were occupied sleep was "never" peaceful. My bunkmates were always waking me up by tossing or turning or getting up or down to use the bathroom. I never felt rested. (Miserable + Tense)
 (Under Authority of Robert Tilton)

Count 3: The following civil right has been violated: Freedom from cruel and unusual punishment
 (E.g., right to medical care, access to courts, due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.)

Supporting Facts: [Include all facts you consider important to Count 3. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, by name, did to violate the right alleged in Count 3.]

Eight days later on September 7, 2007 I was put on a transport bus back to Donovan due to a clerical error concerning transfer.

Upon arrival I was returned to the #2 yard but not back to the gym. This time I was assigned to building #10. It too had its own problems due to over crowding conditions. No more triple bunks. Now I was placed in a cell. Whether two bunks in one cell were actually legal I do not know but that's how it was and it was still kind of tight. I stayed mostly on my assigned bunk up top to stay out of my cellmates way.

The cells are side by side and form a horseshoe with the day room in the middle which was supposed to allow fellow inmates to mingle and watch T.V. But since the day room is now being used as illegal living quarters for (EXTRA) inmates, those of us assigned to cells are "NEVER" allowed to enjoy the use of the T.V. That's a shame because I really enjoy the news, Dateline and 60 Minutes. (INformate Viewing)

All of this is taking place under the direct approval of Robert Tilton, the man responsible for the well being of all California State Inmates.

(Memorandum)

Upon my arrival into the custody of the California Department of Corrections the Governor and Director of Corrections adamantly refuse to release inmates and come under compliance with laws governing overcrowded conditions.

Instead of obeying the law they opted to obstruct justice. They continually gathered behind closed doors and open courtrooms to plot and scheme as to how they could circumvent the law and pervert its due administrations. It was then that lawful prisoners became hostages.

The detentions were unlawful yet they were enforced willfully, illegally and with malice (of course they hated the prisoners) under threat of force and violence to include great bodily injury and even death should escape from these illegal detentions be attempted.

Furthermore, many of those prisoners were later forced across county lines to endure yet more illegal detentions in other prisons.

Note: Though state and Federal laws have been broken no criminal charges have been filed at this time.

Respectfully Submitted,

12-6-07

Philip L. Machado

D. Previous Lawsuits and Administrative Relief

1. Have you filed other lawsuits in state or federal courts dealing with the same or similar facts involved in this case? Yes No.

If your answer is "Yes", describe each suit in the space below. [If more than one, attach additional pages providing the same information as below.]

(a) Parties to the previous lawsuit:

Plaintiffs: _____

Defendants: _____

(b) Name of the court and docket number: _____

(c) Disposition: [For example, was the case dismissed, appealed, or still pending?] _____

(d) Issues raised: _____

(e) Approximate date case was filed: _____

(f) Approximate date of disposition: _____

2. Have you previously sought and exhausted all forms of informal or formal relief from the proper administrative officials regarding the acts alleged in Part C above? [E.g., CDC Inmate/Parolee Appeal Form 602, etc.]? Yes No.

If your answer is "Yes", briefly describe how relief was sought and the results. If your answer is "No", briefly explain why administrative relief was not sought.

In my personal prior experiences one is lucky to have a
damning 602 answered much less granted. 602's only
buy time buy time to continue unethical behavior while
going through the lengthy process to completion. They
are handled with complete audacity to frustrate and
confuse those who are stupid enough to believe in
them and they "Never" admit to illegal behavior, NEVER!
In fact they are a barrier towards justice -

E. Request for Relief

Plaintiff requests that this Court grant the following relief:

1. An injunction preventing defendant(s): Robert Tilton from

Conspiring with his MINIONS and other inmates to commit criminal offenses pertaining to my person. (With all due respect)

2. Damages in the sum of \$ 50,000.00.

3. Punitive damages in the sum of \$ 200.00 per day until discharge.

4. Other: Discharge from Prison and Parole and restitutions and court costs. STATE & FEDERAL.

F. Demand for Jury Trial

Plaintiff demands a trial by Jury Court. (Choose one.)

G. Consent to Magistrate Judge Jurisdiction

In order to insure the just, speedy and inexpensive determination of Section 1983 Prisoner cases filed in this district, the Court has adopted a case assignment involving direct assignment of these cases to magistrate judges to conduct all proceedings including jury or bench trial and the entry of final judgment on consent of all the parties under 28 U.S.C. § 636(c), thus waiving the right to proceed before a district judge. The parties are free to withhold consent without adverse substantive consequences.

The Court encourages parties to utilize this efficient and expeditious program for case resolution due to the trial judge quality of the magistrate judges and to maximize access to the court system in a district where the criminal case loads severely limits the availability of the district judges for trial of civil cases. Consent to a magistrate judge will likely result in an earlier trial date. If you request that a district judge be designated to decide dispositive motions and try your case, a magistrate judge will nevertheless hear and decide all non-dispositive motions and will hear and issue a recommendation to the district judge as to all dispositive motions.

You may consent to have a magistrate judge conduct any and all further proceedings in this case, including trial, and the entry of final judgment by indicating your consent below.

Choose only one of the following:

Plaintiff consents to magistrate judge jurisdiction as set forth above.

OR



Plaintiff requests that a district judge be designated to decide dispositive matters and trial in this case.

12-5-07

Date

Philip S. Machado

Signature of Plaintiff

JS44

(Rev. 07/99)

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

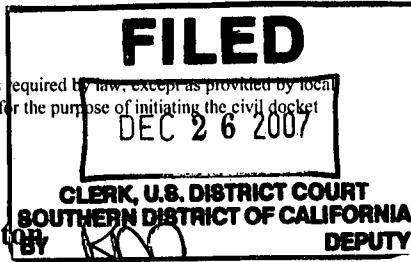
I (a) PLAINTIFFS

Philip L. Machado

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF San Diego
(EXCEPT IN U.S. PLAINTIFF CASES)

2254	1983	✓
DEFENDANT AVAILABILITY		
FILING FEE PAID		
Yes	No	✓
IF MOTION FILED		
Yes	COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY)	
COPIES SENT TO		
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND		
Court	ProSe	✓

Robert Tilton



(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) / ATTORNEYS (IF KNOWN)

Philip L. Machado
PO Box 799002
San Diego, CA 92179
F-64316

'07 CV 2413 JLS AJB

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- U.S. Government Plaintiff 3 Federal Question
(U.S. Government Not a Party)
 2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT
(For Diversity Cases Only))**

- | | PT | DEF | PT | DEF | |
|---|--------------------------|--------------------------|---|--------------------------|--------------------------|
| Citizen of This State | <input type="checkbox"/> | <input type="checkbox"/> | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> | <input type="checkbox"/> |
| Citizen of Another State | <input type="checkbox"/> | <input type="checkbox"/> | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> | <input type="checkbox"/> |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> | <input type="checkbox"/> | Foreign Nation | <input type="checkbox"/> | <input type="checkbox"/> |

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

42 U.S.C. 1983

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reappointment
<input type="checkbox"/> Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	PROPERTY RIGHTS	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce/ICC Rates/etc.
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	SOCIAL SECURITY	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 861 HIA (13958)	<input type="checkbox"/> 850 Securities/Commodities Exchange
<input type="checkbox"/> 160 Stockholders Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability		<input type="checkbox"/> 862 Black Lung (921)	
<input type="checkbox"/> Other Contract	<input type="checkbox"/> 360 Other Personal Injury		<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 875 Customer Challenge 12 USC
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> R91 Agricultural Acts
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> K92 Economic Stabilization Act
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> K93 Environmental Matters
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 530 General	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> K94 Energy Allocation Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 240 Tort to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 791 Empl. Ret. Inc.	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> Security Act	<input type="checkbox"/> 950 Constitutionality of State
<input type="checkbox"/> 290 All Other Real Property				<input type="checkbox"/> 890 Other Statutory Actions

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- 1 Original Proceeding 2 Removal from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23 **DEMAND \$** Check YES only if demanded in complaint:
JURY DEMAND: YES NO

VIII. RELATED CASE(S) IF ANY (See Instructions): JUDGE

Docket Number

DATE 12/26/2007

SIGNATURE OF ATTORNEY OF RECORD

